

B 10 (Official Form 10) (12/11)

UNITED STATES BANKRUPTCY COURT <u>EASTERN DISTRICT OF VIRGINIA</u>		PROOF OF CLAIM
Name of Debtor: <u>Circuit City Stores, Inc.</u>	Case Number: <u>08-35653-KRH</u>	<div style="border: 2px solid black; padding: 5px; margin: 0 auto; width: 80%;"> RICHMOND DIVISION <div style="display: flex; justify-content: space-between;"> F I L E D MAR 29 2012 F I L E D </div> CLERK US BANKRUPTCY COURT </div>
<small>NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.</small>		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Robert E. Marshall		COURT USE ONLY <input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: <u>George J. Cosenza, Attorney at Law</u> <u>P.O. Box 4 - 515 Market Street</u> <u>Parkersburg, WV 26102</u> Telephone number: <u>304-485-0990</u> email: <u>cosenza@wvdsi.net</u>		
Name and address where payment should be sent (if different from above): Telephone number: _____ email: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: <u>\$ 25,000.00</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>personal injury</u> <small>(See instruction #2)</small>		
3. Last four digits of any number by which creditor identifies debtor: <u>6849</u>	3a. Debtor may have scheduled account as: <u>N/A</u> <small>(See instruction #3a)</small>	3b. Uniform Claim Identifier (optional): <u>N/A</u> <small>(See instruction #3b)</small>
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable <small>(when case was filed)</small>		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____
5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). </div> <div style="width: 30%;"> <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. §507 (a)(4). </div> <div style="width: 30%;"> <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;"> <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). </div> <div style="width: 30%;"> <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). </div> <div style="width: 30%;"> <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____). </div> </div> <div style="text-align: right; margin-top: 10px;"> Amount entitled to priority: \$ _____ </div>		
<small>*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		

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7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

- ☒ I am the creditor. ☐ I am the creditor's authorized agent. ☐ I am the trustee, or the debtor, ☐ I am a guarantor, surety, indorser, or other codebtor.
(Attach copy of power of attorney, if any.) or their authorized agent. (See Bankruptcy Rule 3005.)
(See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Robert E. Marshall

Title: _____

Company: _____

Address and telephone number (if different from notice address above):

77 Little Addition Road
Davisville, WV 26142

Telephone number: 304-422-2891 email: _____

Robert E Marshall 3-28-2012
(Signature) (Date)

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

ROBERT E. MARSHALL,

Plaintiff,

vs.

Civil Action No. _____

**CIRCUIT CITY STORES, INC.,
a Virginia corporation,**

Defendant.

C O M P L A I N T

NOW COMES the Plaintiff, **ROBERT E. MARSHALL**, by and through the undersigned counsel, and for his Complaint against the Defendant respectfully states as follows:

COUNT I

1. The Plaintiff, **ROBERT E. MARSHALL**, at all relevant times hereto, resided at 77 Little Addition Road, Davisville, Wood County, West Virginia.

2. The Defendant, **CIRCUIT CITY STORES, INC.**, at all relevant time hereto, was a Virginia corporation licensed to conduct business in the State of West Virginia, with its principal place of business located at 9950 Mayland Drive, Richmond, Virginia and its business location in the State of West Virginia located at 605 Grand Central Avenue, Vienna, Wood County, West Virginia.

COUNT II

3. The Plaintiff, **ROBERT E. MARSHALL**, restates each and every allegation contained in Paragraphs 1 and 2 of the Complaint as if the same were repeated, verbatim, herein.

4. On or about February 23, 2009, the Plaintiff, **ROBERT E. MARSHALL**, was a

patron at the Circuit City Store in Vienna, West Virginia.

5. While in the Circuit City Store in Vienna, West Virginia, the Plaintiff tripped over a display which was sticking out into the aisle. He fell to the ground sustaining lacerations to his face and bruising and strain/sprain to his back and hips. The Defendant refused to render any aid to Mr. Marshall and Mr. Marshall was subsequently taken to the hospital by an EMT squad contacted by a family member.

6. The Defendant, **CIRCUIT CITY STORES, INC.**, negligently placed a display in a location in the store aisle which could reasonably cause injury and harm to store patrons.

7. Upon information and belief, the Defendant, **CIRCUIT CITY STORES, INC.** intentionally, willfully, recklessly, and/or with gross negligence, and in disregard for the safety, health and welfare of the Plaintiff failed to provide a safe environment for the public, resulting in severe and debilitating injuries to the Plaintiff.

8. As a direct and proximate result of the negligence of the Defendant, the Plaintiff suffered hip and back pain and sustained a 2.5cm laceration of the middle aspect of this left eyebrow and outer aspect of his left eyebrow. He underwent a wound repair of the laceration to his eyebrow and was diagnosed with a sprain/strain injury.

9. As a direct and proximate result of the negligence of the Defendant, the Plaintiff has required medical treatment in the past and may require medical treatment in the future.

10. As a direct and proximate result of the negligence of the Defendant, the Plaintiff has incurred medical expenses in a large amount, all in thus far effort to cure, remedy and alleviate his aforesaid pain, suffering and injury.

11. As a direct and proximate result of the negligence of the Defendant, the Plaintiff has also suffered and experienced pain and suffering of body and mind. His injuries are permanent and he will incur future medical expenses and experience future pain and suffering. The Plaintiff's ability to engage in his usual everyday and ordinary activities has been, and will continue to be, diminished and impaired, all through the fault of the Defendant and without any fault on the part of the Plaintiff.

WHEREFORE, the Plaintiff, **ROBERT E. MARSHALL**, respectfully demands that his Complaint be filed and proper process issue; that the Plaintiff be granted a judgment for compensatory damages against the Defendant, **CIRCUIT CITY STORES, INC., a Virginia corporation**, in a sum sufficient to compensate him for his injuries and damages as set forth herein and otherwise; plus pre-judgment and post-judgment interest; attorney's fees and costs thereon; and that he be granted further relief as the nature of his case may require.

ROBERT E. MARSHALL,

By Counsel:

GEORGE J. COSENZA, #833
515 Market Street - P.O. Box 4
Parkersburg, WV 26102
(304) 485-0990

DEMAND FOR JURY TRIAL

The Plaintiff, **ROBERT E. MARSHALL**, by and through his attorney, **GEORGE J. COSENZA**, hereby demands trial by jury in the above-styled matter.

GEORGE J. COSENZA, #833
Counsel for Plaintiffs